

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

MARSHALL LOUIS RATLIFF, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 5:20-cv-00610

CHAD LESTER, et al.,

Defendants.

ORDER

Pending is Plaintiffs' Application to Proceed Without Prepayment of Fees or Costs [Doc. 1] and Complaint [Doc. 2], filed September 16, 2020. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on January 29, 2021. Magistrate Judge Aboulhosn recommended that the Court deny the Application to Proceed Without Prepayment of Fees or Costs, dismiss the Complaint without prejudice, and remove the matter from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*") (emphasis added). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically "appeal a magistrate judge's

findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on February 16, 2021. No specific objections were filed. Inasmuch as Plaintiffs filed a general objection requesting the case continue without pointing the Court to any specific error in Magistrate Judge Aboulhosn's findings, the Court will not conduct de novo review.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 10**], **DENIES** the Application to Proceed Without Prepayment of Fees or Costs [**Doc. 1**], **DISMISSES** the Complaint [**Doc. 2**] without prejudice, and **DISMISSES** the matter.¹

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTERED: May 6, 2021



Frank W. Volk
 Frank W. Volk
 United States District Judge

¹ Included in Plaintiffs' response is Mr. Ratliff's request for counsel. Given the Court's dismissal of the Complaint, Mr. Ratliff's request is **DENIED AS MOOT**.